App. F. IX-4

1927.

File No. 65-27

Previous References (Law)

Serial Nos. ~~1-6~~ 1-2

Later References

D

P

General and Revenue Secretariat.

Serial Nos. 2

Part B for June 1928

SUBJECT

Request of the Govt Advocate for permission to take up private criminal cases ~~for practice~~

NOP 7316 d 18-6-27 To the Govt Advocate

~~Not Sanctioned~~

~~Government's inability to~~

Govt regret their inability to

~~accord~~ Sanction

grant the permission.

Mins 10.2.28 3/8/28

To the Govt Advocate Bassein

G. R. S. APP F.III—11 1927

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 65

FILE HEADING.

Appearance of Govt Advocate for pers- in Private Criminal Cases.

FROM Mr. K Shamanarayanaiah, Govt Advocate

No. nil Dated 8th may 1928 Received 9.5.28

Diary No.	Enclos.	Spare copies	Serial No.,

BRIEF ABSTRACT OF LETTER.

Letter to the First member praying for permission to appear for the accused in C.C. 675 of 27.28 in the City Court of the Magistrate Bangalore ~~which is~~ a case of defamation under Sec 500 I.P.C.

NOTES AND ORDERS

The Govt Advocate says that C.C. 675 of 27.28 in the City magistrate's Court, Bangalore is a case under sec 500 I.P.C and arises out of a Civil litigation in which he is appearing for the parties who happen to be the accused in the Criminal case. He also says that the Govt is not likely to be interested in

NOTES—First Sheet.

5506
2

General and Revenue Secretariat. | Office No. 65 of 1927.

Serial No. 2

9532/1515 Hagg.

the case either in the appellate work or in the Chief Court. He draws attention however to the general prohibition contained in Rule 28 of the Rules for the Conduct of Legal Affairs of Government and says that at the time at which the rules were promulgated, he foresaw not the very wide terms of this rule but that the question was not considered.

Under the peculiar circumstances of this case, he prays for permission to appear for the accused.

Remarks of the first member
"may perhaps be allowed in this case
L.R. with Compts for a note"
Sd/

Get the file of rules relative to legal affairs - Also connected with the framing of new rules. 14/5/28.

Submitted
MP
11.5.28

My opinion is placed below.
1st Member
Sd/
14-5-28

This may be shown to Govt Advocate
Sd/
16/5

Govt Adv. may be asked to give any opinion necessary in either the [redacted] in the Bo. proceedings in which such person [redacted] of was given

Lee
21/5
Sd/
21.5.

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

Draft. 2
2115

3 5508

App. F. III—2]

General and Revenue Secretariat. | File No. 65 of 192 7.

Serial No.

Draft submitted:

Secy

22/5/28

Letter to G.A. No: P702/ dated 26.5.28 requesting him to quote instances where permission under similar circumstances was granted -

Letter from G.A. dated camp Nuzvid 9.6.28 to first member;

It is stated that in a Criminal case, Mr. C.S. Doraswami Iyer who was then G.A. had appeared for a private party (complainant) in a Criminal case & that there does not appear to be any objn to the Addl. Govt. Pleader appearing in a purely private Criminal case. It is also stated that there does not appear to be any precedent & praying that immediate orders be issued as a special case permitting him to appear in the case -

First Members orders

" This may be submitted to my successor with file

SD/ K.C. 10/6.

10304/16/6

Submitted

Secy)

12/6

NOTE—Contn. sheet

WD0324—GPB—60,000—24-5-27

5908
5506

4

App. F. III—2]

General and Revenue Secretariat. | Law File No. 65 of 1927

Serial No. 4

I think it is best to ask the Govt a polite reply may be sent expressing regret that the permission asked for cannot be granted.

Law
Draft put up
Mof
16/6

Seen
16/6

Draft
16/6

Sanctioned
To
The Govt Advocate
No P 7316 dt 18.6.28
Inform that Govt regret their inability to grant the permission asked for

Draft
No
15/6

app
16/6

Issued
16/6

File B.
Mof
25/6/28

24/7

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

Opinion 9 5

Rule 28 runs as follows:--

"The Government Advocate is debarred from taking any criminal work whatever from private persons. On the civil side he is debarred from appearing against Government in any case to which Government is a party

This rule only reproduces the previous rule in Mysore on the subject. The practice in all the Provinces in India is the same as that obtaining in Mysore. One of the conditions of the engagement of the Government Advocate is that he should not take up any private practice in criminal cases as he has to represent the crown before the Chief Court in all cases where the Government are to be represented. The Law of defamation in India is contained in the Penal Code. Though a private party may prefer a complaint yet in an appeal against the conviction the Chief Court may call upon the Government Advocate to support the conviction in special cases It is on this and other grounds of policy the Government Advocate is debarred from taking private practice in criminal cases. ~~As regards~~

As regards Public Prosecutors the position is different. They are specially engaged to appear in Sessions cases before the Sessions Judge. They do not appear before the Chief Court on behalf of the Crown. They are therefore allowed to practise in Criminal Courts without restriction subject however to the condition that he should not take up any case on behalf of any private person in which he has reason to believe that his services have been or are likely to be requisitioned by Government

This rule was based on the old practice which was prevailing in Mysore I have known no case in which Government Advocate has been permitted to appear for private parties in Criminal cases.

S Thimmappa
Legal Remembrancer.
14-5-'28

K. SHANKARANARAYAN RAU, M.A., B.L.
ADVOCATE

5506/92

Bangalore City

8th May 1928. 192

Dear Sir,

I beg to bring to your kind notice the fact that in connection with certain caste disputes between some members of the Marwari community, I have been engaged by some persons (Simratmall and others) to appear for them in the Civil litigation relating to the matter. Incidentally there has arisen a Criminal case of defamation under section 500, I. P. C., and my clients happen to be the accused in that case which is numbered as Criminal Case No. 675 of 1927-28 on the file of the City Magistrate, Bangalore.

The aforesaid persons, for whom I have to appear in the connected Civil litigation, have also approached me to defend them in the said Criminal Case. This is a purely private case in which Government is not interested and even if such cases go before the appellate court or the Chief Court, it is only the private parties that are notified and not the Public Prosecutor or the Government Advocate. As the interests of the public or of Government are not involved there cannot be any real impediment to my taking up the engagement.

But, Rule 28 of the Rules for the Conduct of Legal Affairs of Government has somehow created a kind of a general prohibition as it runs as follows:-

> "The Government Advocate is debarred from taking any criminal work whatever from private persons"

This rule is obviously too wide as it also applies to cases in which Government are not in any way interested. In this connection Rule 45 (which relates to Public Prosecutors) may be compared which excludes cases in which Government are not interested.

As soon as these Rules were promulgated, I raised this point for the orders of Government but the question does not appear to have been considered.

However, under the peculiar circumstances of this case and more particularly in view of the purely private nature of the complaint, in which the Government are not either directly or indirectly interested, I request that I may be permitted to appear on behalf of the accused in this case.

The case is coming on for hearing during the last week of this month and so, I request that early orders may kindly be passed in the matter.

Yours sincerely,

K. Chandy

Rajasabhabhushana
K. Chandy, Esquire., B. A.,
First Member of Council, Bangalore.

A, P. F. VI. Gl]

SUBJECT.....

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Section

File No.

Serial No. 6

Diary No. of letter replied to.....

No. 1702

General and Revenue Secretariat

( )

the *192*

To K. Shankaranarayana Rao Esq
Government advocate, Bangalore.

Date of issue..... 26/8/28

Signed by..... M. N.S

Sir,

With reference to your letter dated 8th May 1928 to the first member of Council soliciting permission of Government to enable you to appear for the accused in C.C. 675 of 27-28 in the Bangalore City Magistrate's Court, I am directed to request you to ~~enquire whether~~ ~~You are aware~~ ~~Are you aware~~ quote an ~~any~~ instances either

List of enclosures.....

Copied by ..... Copied

Examined by .....

over

in Mysore or in any British

Indian Province, where permission was granted

under similar circumstances.

~~has been given to the Government~~

~~Advocate, or such other Corresponding~~

~~officer~~

I have &c

Legal Remembrancer
and Secy to Govt
Law Dept

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record]

D. O. No.

5 308 82

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,

Bangalore, 9th June 1928

Dear Sir,

I came here a few days ago in connection with the Palace Treasury defalcation appeal. The case is still proceeding.

Sometime ago I brought to your kind notice the fact that some Marwari merchants had engaged me in some Civil matter arising out of caste disputes and that they wanted me to appear for them in a defamation case (Criminal) arising out of the same question. As the rules relating to the Conduct of Legal Affairs prevent me from appearing for a private party in a Criminal Case I made a personal representation to you and also made a formal request for permission to appear in that defamation case.

I have now been asked to state if there are any precedents in Mysore or in other Provinces. I learn that the C. S.

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W D 1880—GPB—1,50 000—2 5-28

A, P. F. VI. Gl]

SUBJECT.....

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.....

Law

Section

File No. 65-27

Serial No. 5 2

Diary No. of letter replied to.....

1716

General and Revenue Secretariat

( )

the 192

To K. Shankaranarayanarao Esq
Govt. advocate
Bangalore

Date of issue 18/6/28

Signed by

Sir,

With reference to your letter dated 9th June 1928 to Rajasabha bhushanam K. Chandy, first member of Council, I am directed to inform you that Government regret their inability to grant the permission asked for.

Cannot be granted

requesting that you may be permitted, ~~to appear~~ as a special case, to appear for the accused in C.C. 675 of 1927-28 in the Sessions Court, Bangalore,

List of enclosures.....

I have etc

Copied by

Legal Asst
Secy to Govt
Law Dept

Examined by

overlf
16/6/28

WD0325—GPB—30,000—26-5-27